

**REMARKS**

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed June 27, 2007. Claims 1-28 are pending in the Application and Claims 29-30 are withdrawn.

The drawings are objected to for informalities.

Claims 15-28 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

A requirement for information is required under 37 C.F.R. §1.105.

Claims 1-28 are rejected under 35 U.S.C. §102(b) as being anticipated by McPartlan *et al.* (U.S. Pat. No. 5,822,569).

In response to these rejections, Claims 1 and 15 have been amended to further clarify the subject matter which Applicants regard as the invention, without prejudice or disclaimer to continued examination on the merits. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added. Based upon the amendments and the arguments presented herein, reconsideration of the Application is respectfully requested.

**Drawing Objections**

The drawings are objected to for informalities. Specifically, Examiner states Figure 10 is illegible and contains handwritten item descriptors and Figure 7 is illegible. In response to this objection, Applicants are submitting Replacement Drawing Sheets for Figures 7 and 10 herewith.

**Claims 15-28 - §101 Rejection**

Claims 15-28 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, Examiner rejects Claims 15-28 because they are directed towards a computer readable medium which Applicants define to encompass non-statutory embodiments.

In response to this rejection, Applicants have amended the specification to remove the non-statutory subject matter from the definition of computer readable medium. Specifically, Applicants have removed all references to transmission media. Therefore, Applicants respectfully submit the rejection of Claims 15-28 under 35 U.S.C. §101 has been overcome and request its withdrawal.

**Claim 1 - §112, first paragraph, Rejection**

Claim 1 is rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Examiner states that Applicants fail to provide any information within the specification to describe “Version Independent (VINI) functionality.”

In response to this rejection, Applicants have amended Claim 1 to remove “VINI” from the claim language. NE element-independent Version Independent functionality is described in the specification at, for example, p. 10, lines 4-6 where Applicants described version independent as follows:

In one embodiment, the core application 202 contains no code that is specific to any network element 106; thus, core application 202 is network element independent and its operating software version independent.

Accordingly, Applicants respectfully submit that the rejection of Claim 1 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement has been traversed, and respectfully request withdrawal.

**Requirement for Information under 37 C.F.R. §1.105**

Examiner has required information under 37 C.F.R. §1.105 related to the Version Independent (VINI) functionality. Applicants respectfully submit that Version Independent functionality as disclosed is **not** related to the VINI standard ([www.vini-veritas.net](http://www.vini-veritas.net)).

From [www.vini-veritas.net](http://www.vini-veritas.net), VINI is a virtual network infrastructure that allows network researchers to evaluate their protocols and services in a realistic environment that also provides a high degree of control over network conditions. VINI allows researchers to deploy and evaluate their ideas with real routing software, traffic loads, and network events. To provide researchers flexibility in designing their experiments, VINI supports simultaneous experiments with arbitrary network topologies on a shared physical infrastructure

As described herein, Applicants' Version Independent functionality relates to a core application containing no code specific to any network element, and thus the application is network element independent and version independent. Thus, Applicants' Version Independent functionality does not relate to a virtual network infrastructure, but rather to a network management system framework. Additionally, Applicants have amended Claim 1 to remove the VINI acronym.

**Claims 1-28 - §102(b) Rejection – McPartlan *et al.***

Claims 1-28 are rejected under 35 U.S.C. §102(b) as being anticipated by McPartlan *et al.* (U.S. Pat. No. 5,822,569).

First, McPartlan *et al.* do not teach “executing a core application, the core application comprising NE element-independent Version Independent functionality that can be invoked to interact with any network element, wherein NE element-independent

Version Independent functionality comprises the core application containing no code specific with any network element.” Examiner states that McPartlan *et al.* teaches this at Col. 3, line 22 where it describes “the network manager 30 receives data from the elements of the main network 10...” However, in the same paragraph, McPartlan *et al.* state that the network manager 30 receives data in the CMIP protocol only, and if the data is in another protocol, the data is converted into CMIP.<sup>1</sup> For this purpose, McPartlan *et al.* teach a data storage device 34 which interacts with local network managers 32 for the local network 12.<sup>2</sup> Respectfully, this is not a core application with NE element-independent Version Independent functionality. McPartlan *et al.* teach a protocol converter between CMIP and SNMP as the data storage device 34, not a core application with independent functionality.

Second, McPartlan *et al.* do not teach managing a network element with version independent functionality. Applicants have amended Claim 1 to include a limitation of “managing the particular network element with the management system with the set of element-dependent modules.” Also, Applicants have amended Claim 15 to include a similar limitation of “instructions for causing one or more processors to manage the particular network element with the set of element-dependent modules.” Neither of these limitations is taught or suggested by McPartlan *et al.* since McPartlan *et al.* teach a data storage device for converting between CMIP and SNMP protocols, and not a dynamically constructed management system.

Additionally, McPartlan *et al.* teach three distinct components, a network manager 30, a network manager 32 for a local network 12, and a data storage device 34. Applicants disclose a core application capable of operating as both the network manager 30 and 32 without the requirement of a separate protocol converter, which is what the data storage device 34 effectively does.

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<sup>1</sup> U.S. Pat. No. 5,822,568, Col. 3, lines 29-32

<sup>2</sup> U.S. Pat. No. 5,822,568, Col. 3, lines 30-33

Specifically, Claim 1 has been amended to recite:

1. A computer implemented mechanism for dynamically constructing a network element management system, comprising:

executing a core application, the core application comprising NE element-independent Version Independent functionality that can be invoked to interact with any network element, *wherein NE element-independent Version Independent functionality comprises the core application containing no code specific with any network element;*

receiving an indication of a particular network element to be managed;

obtaining a description of the particular network element, which specifies one or more characteristics of the particular network element;

accessing, based upon the description, a set of one or more element-dependent modules, the set of element-dependent modules comprising functionality for invoking one or more management services provided by the particular network element;

dynamically incorporating at least a portion of the set of element-dependent modules with the core application to derive a management system capable of managing the particular network element; *and*

*managing the particular network element with the management system with the set of element-dependent modules.*

Specifically, Claim 15 has been amended to recite:

15. A computer readable medium, comprising:

instructions for causing one or more processors to give rise to a core application, the core application comprising element-independent functionality that can be invoked to interact with any network element; *and wherein the core application comprises no code specific with any network element;*

instructions for causing one or more processors to receive an indication of a particular network element to be managed;

instructions for causing one or more processors to obtain a description of the particular network element, which specifies one or more characteristics of the particular network element;

instructions for causing one or more processors to access, based upon the description, a set of one or more element-dependent modules, the set of element-dependent modules comprising functionality for invoking one or more management services provided by the particular network element; *and*

instructions for causing one or more processors to dynamically incorporate at least a portion of the set of element-dependent modules with

the core application to derive a management mechanism capable of managing the particular network element; *and*  
*instructions for causing one or more processors to manage the particular network element with the set of element-dependent modules.*

Accordingly, Applicants respectfully submit that the rejection of Claims 1-28 as being anticipated by McPartlan *et al.* has been traversed, and respectfully request withdrawal.

CONCLUSION

Applicants would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

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/s/ Christopher L. Bernard

Christopher L. Bernard

Registration No.: 48,234

Lawrence A. Baratta Jr.

Registration No.: 59,553

Attorneys for Applicants

**CLEMENTS | WALKER**

1901 Roxborough Road, Suite 300

Charlotte, North Carolina 28211 USA

Telephone: 704.366.6642

Facsimile: 704.366.9744

[cbernard@worldpatents.com](mailto:cbernard@worldpatents.com)